

(b) The Regional Administrator will not award section 106 funds to any State, including any eligible Indian Tribe, which does not have authority comparable to that in section 504 of the Clean Water Act and adequate contingency plans to implement such authority.

(c) The Regional Administrator will not award section 106 funds if federally assumed enforcement as defined in section 309(a)(2) of the Clean Water Act is in effect with respect to the agency.

(d) The Regional Administrator will not award section 106 funds unless the work program submitted with the assistance application shows that the activities to be funded are coordinated, as appropriate, with activities proposed for funding under section 205 (g) and (j) of the Clean Water Act.

[47 FR 44954, Oct. 12, 1982, as amended at 54 FR 14358, Apr. 11, 1989; 59 FR 13817, Mar. 23, 1994]

§ 35.265 Awards to Indian Tribes.

(a) The Regional Administrator will not award section 106 funds to an Indian Tribe unless EPA has determined that the Indian Tribe meets the requirements set forth at 40 CFR 130.6(d) as well as the applicable limitations in 40 CFR 35.260.

(b) The Regional Administrator will not give a continuation award to any Indian Tribe unless the Tribe shows satisfactory progress in meeting its negotiated milestones and goals.

[54 FR 14358, Apr. 11, 1989, as amended at 59 FR 13817, Mar. 23, 1994]

STATE ADMINISTRATION (SECTION 205(G))

§ 35.300 Purpose.

Section 205(g) of the Clean Water Act authorizes assistance to States (as defined in section 502 of the Act) for two purposes.

(a) *Construction management assistance.* The 205(g) funds may be used for administering elements of the construction grant program under sections 201, 203, 204, and 212 of the Clean Water Act and for managing waste treatment construction grants for small communities. Construction management assistance funds may also be used for administering elements of a State's construction grant program which are im-

plemented without Federal assistance, if the Regional Administrator determines that those elements are consistent with 40 CFR part 35, subpart I. Program requirements for State construction management activities under delegation are provided in 40 CFR part 35, subparts F and I.

(b) *Permit and planning assistance.* The 205(g) funds may be used for administering permit programs under sections 402 and 404 and for administering statewide waste treatment management planning programs under section 208(b)(4) of the Clean Water Act. Some of these activities may be eligible for funding under sections 106 and 205(j) of that Act. (See §§ 35.250 and 35.350.) Program requirements for water quality management activities are provided in 40 CFR part 35, subpart G.

§ 35.305 Maintenance of effort.

To receive funds under section 205(g), a State agency must expend annually for recurrent section 106 program expenditures an amount of non-Federal funds at least equal to such expenditures during fiscal year 1977, unless the Regional Administrator determines that the reduction is attributable to a non-selective reduction of expenditures in State executive branch agencies.

§ 35.310 Limitations.

(a) The Regional Administrator will not award section 205(g) funds for construction management assistance unless there is a signed agreement delegating responsibility for administration of those activities to the State.

(b) The Regional Administrator will not award section 205(g) permit and planning assistance before awarding funds which provide for the management of a substantial portion of construction grants program. The maximum amount of permit and planning assistance a State may receive is the amount remaining in its reserve after the Regional Administrator allows for full funding of the management of the construction grant program under full delegation.

(c) The Regional Administrator will not award section 205(g) permit and planning assistance unless the work program submitted with the assistance application shows that the activities to